

AN ACT

relating to the disclosure of a hazardous drain in a swimming pool or spa by a seller of residential real property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5.008, Property Code, is amended by amending Subsection (b) and adding Subsection (g) to read as follows:

(b) The notice must be executed and must, at a minimum, read substantially similar to the following:

SELLER'S DISCLOSURE NOTICE

CONCERNING THE PROPERTY AT _____
(Street Address and City)

THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

Seller __ is __ is not occupying the Property.

If unoccupied, how long since Seller has occupied the Property?

1. The Property has the items checked below:

Write Yes (Y), No (N), or Unknown (U).

<input type="checkbox"/> Range	<input type="checkbox"/> Oven	<input type="checkbox"/> Microwave
<input type="checkbox"/> Dishwasher	<input type="checkbox"/> Trash Compactor	<input type="checkbox"/> Disposal
<input type="checkbox"/> Washer/Dryer	<input type="checkbox"/> Window	<input type="checkbox"/> Rain Gutters
<input type="checkbox"/> Hookups	<input type="checkbox"/> Screens	
<input type="checkbox"/> Security	<input type="checkbox"/> Fire Detection	<input type="checkbox"/> Intercom
<input type="checkbox"/> System	<input type="checkbox"/> Equipment	<input type="checkbox"/> System
	<input type="checkbox"/> Smoke Detector	

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1		<input type="checkbox"/> Smoke Detector -	
2		<input type="checkbox"/> Hearing Impaired	
3		<input type="checkbox"/> Carbon Monoxide	
4		<input type="checkbox"/> Alarm	
5		<input type="checkbox"/> Emergency Escape	
6		<input type="checkbox"/> Ladder(s)	
7	<input type="checkbox"/> TV Antenna	<input type="checkbox"/> Cable TV	<input type="checkbox"/> Satellite
8		<input type="checkbox"/> Wiring	<input type="checkbox"/> Dish
9	<input type="checkbox"/> Ceiling Fan(s)	<input type="checkbox"/> Attic Fan(s)	<input type="checkbox"/> Exhaust
10			<input type="checkbox"/> Fan(s)
11	<input type="checkbox"/> Central A/C	<input type="checkbox"/> Central Heating	<input type="checkbox"/> Wall/Window
12			<input type="checkbox"/> Air
13			<input type="checkbox"/> Conditioning
14	<input type="checkbox"/> Plumbing System	<input type="checkbox"/> Septic System	<input type="checkbox"/> Public Sewer
15			<input type="checkbox"/> System
16	<input type="checkbox"/> Patio/Decking	<input type="checkbox"/> Outdoor Grill	<input type="checkbox"/> Fences
17	<input type="checkbox"/> Pool	<input type="checkbox"/> Sauna	<input type="checkbox"/> Spa
18			<input type="checkbox"/> Hot Tub
19	<input type="checkbox"/> Pool Equipment	<input type="checkbox"/> Pool Heater	<input type="checkbox"/> Automatic Lawn
20			<input type="checkbox"/> Sprinkler
21			<input type="checkbox"/> System
22	<input type="checkbox"/> Fireplace(s) &		<input type="checkbox"/> Fireplace(s) &
23	<input type="checkbox"/> Chimney		<input type="checkbox"/> Chimney
24	<input type="checkbox"/> (Woodburning)		<input type="checkbox"/> (Mock)
25	<input type="checkbox"/> Gas Lines		<input type="checkbox"/> Gas Fixtures
26	<input type="checkbox"/> (Nat./LP)		
27	Garage: <input type="checkbox"/> Attached	<input type="checkbox"/> Not Attached	<input type="checkbox"/> Carport
28	Garage Door Opener(s):	<input type="checkbox"/> Electronic	<input type="checkbox"/> Control(s)
29	Water Heater:	<input type="checkbox"/> Gas	<input type="checkbox"/> Electric
30	Water Supply: <input type="checkbox"/> City	<input type="checkbox"/> Well <input type="checkbox"/> MUD	<input type="checkbox"/> Co-op
31	Roof Type: _____	Age: _____	(approx)

32 Are you (Seller) aware of any of the above items that are not in
33 working condition, that have known defects, or that are in need of
34 repair? ☐ Yes ☐ No ☐ Unknown.

35 If yes, then describe. (Attach additional sheets if necessary):
36 _____
37 _____

38 2. Does the property have working smoke detectors installed in
39 accordance with the smoke detector requirements of Chapter 766,
40 Health and Safety Code?* ☐ Yes ☐ No ☐ Unknown.

41 If the answer to the question above is no or unknown, explain.
42 (Attach additional sheets if necessary): _____

1 _____

2 _____

3 *Chapter 766 of the Health and Safety Code requires
4 one-family or two-family dwellings to have working smoke detectors
5 installed in accordance with the requirements of the building code
6 in effect in the area in which the dwelling is located, including
7 performance, location, and power source requirements. If you do
8 not know the building code requirements in effect in your area, you
9 may check unknown above or contact your local building official for
10 more information. A buyer may require a seller to install smoke
11 detectors for the hearing impaired if: (1) the buyer or a member of
12 the buyer's family who will reside in the dwelling is hearing
13 impaired; (2) the buyer gives the seller written evidence of the
14 hearing impairment from a licensed physician; and (3) within 10
15 days after the effective date, the buyer makes a written request for
16 the seller to install smoke detectors for the hearing impaired and
17 specifies the locations for installation. The parties may agree
18 who will bear the cost of installing the smoke detectors and which
19 brand of smoke detectors to install.

20 3. Are you (Seller) aware of any known defects/malfunctions in any
21 of the following?

22 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- | | | |
|--|--|---|
| 23 <input type="checkbox"/> Interior Walls | <input type="checkbox"/> Ceilings | <input type="checkbox"/> Floors |
| 24 <input type="checkbox"/> Exterior Walls | <input type="checkbox"/> Doors | <input type="checkbox"/> Windows |
| 25 <input type="checkbox"/> Roof | <input type="checkbox"/> Foundation/
26 Slab(s) | <input type="checkbox"/> Basement |
| 27 <input type="checkbox"/> Walls/Fences | <input type="checkbox"/> Driveways | <input type="checkbox"/> Sidewalks |
| 28 <input type="checkbox"/> Plumbing/Sewers/
29 Septics | <input type="checkbox"/> Electrical
Systems | <input type="checkbox"/> Lighting
Fixtures |

30 ☐ Other Structural Components (Describe): _____

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1 _____
2 _____
3 If the answer to any of the above is yes, explain. (Attach
4 additional sheets if necessary): _____
5 _____
6 _____

7 4. Are you (Seller) aware of any of the following conditions?
8 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- | | | |
|----|----------------------------------|------------------------------|
| 9 | ___ Active Termites | ___ Previous Structural |
| 10 | (includes | or Roof Repair |
| 11 | wood-destroying insects) | |
| 12 | ___ Termite or Wood Rot Damage | ___ Hazardous or Toxic Waste |
| 13 | Needing Repair | |
| 14 | ___ Previous Termite Damage | ___ Asbestos Components |
| 15 | ___ Previous Termite | ___ Urea formaldehyde |
| 16 | Treatment | ___ Insulation |
| 17 | ___ Previous Flooding | ___ Radon Gas |
| 18 | ___ Improper Drainage | ___ Lead Based Paint |
| 19 | ___ Water Penetration | ___ Aluminum Wiring |
| 20 | ___ Located in 100-Year | ___ Previous Fires |
| 21 | Floodplain | |
| 22 | ___ Present Flood Insurance | ___ Unplatted Easements |
| 23 | Coverage | |
| 24 | ___ Landfill, Settling, Soil | ___ Subsurface |
| 25 | Movement, Fault Lines | Structure or Pits |
| 26 | ___ <u>Single Blockable Main</u> | ___ Previous Use of Premises |
| 27 | <u>Drain in Pool/Hot</u> | for Manufacture of |
| 28 | <u>Tub/Spa*</u> | Methamphetamine |

29 If the answer to any of the above is yes, explain. (Attach
30 additional sheets if necessary): _____
31 _____
32 _____

33 *A single blockable main drain may cause a suction entrapment
34 hazard for an individual.

35 5. Are you (Seller) aware of any item, equipment, or system in or
36 on the property that is in need of repair? ___ Yes (if you are

1 aware) No (if you are not aware). If yes, explain (attach
2 additional sheets as necessary). _____

3 6. Are you (Seller) aware of any of the following?

4 Write Yes (Y) if you aware, write No (N) if you are not aware.

- 5 Room additions, structural modifications, or other
- 6 alterations or repairs made without necessary permits or not
- 7 in compliance with building codes in effect at that time.
- 8 Homeowners' Association or maintenance fees or assessments.
- 9 Any "common area" (facilities such as pools, tennis courts,
- 10 walkways, or other areas) co-owned in undivided interest with
- 11 others.
- 12 Any notices of violations of deed restrictions or
- 13 governmental ordinances affecting the condition or use of the
- 14 Property.
- 15 Any lawsuits directly or indirectly affecting the Property.
- 16 Any condition on the Property which materially affects the
- 17 physical health or safety of an individual.

18 If the answer to any of the above is yes, explain. (Attach
19 additional sheets if necessary): _____

20 _____
21 _____

22 7. If the property is located in a coastal area that is seaward of
23 the Gulf Intracoastal Waterway or within 1,000 feet of the mean high
24 tide bordering the Gulf of Mexico, the property may be subject to
25 the Open Beaches Act or the Dune Protection Act (Chapter 61 or 63,
26 Natural Resources Code, respectively) and a beachfront
27 construction certificate or dune protection permit may be required
28 for repairs or improvements. Contact the local government with
29 ordinance authority over construction adjacent to public beaches
30 for more information.

31 _____
32 Date _____ Signature of Seller _____

33 The undersigned purchaser hereby acknowledges receipt of the

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1 foregoing notice.

2 _____
3 Date Signature of Purchaser

4 (g) In this section:

5 (1) "Blockable main drain" means a main drain of any
6 size and shape that a human body can sufficiently block to create a
7 suction entrapment hazard.

8 (2) "Main drain" means a submerged suction outlet
9 typically located at the bottom of a swimming pool or spa to conduct
10 water to a recirculating pump.

11 SECTION 2. This Act applies only to a transfer of property
12 that occurs on or after the effective date of this Act. A transfer
13 of property that occurs before the effective date of this Act is
14 governed by the law applicable to the transfer immediately before
15 that date, and the former law is continued in effect for that
16 purpose. For the purposes of this section, a transfer of property
17 occurs before the effective date of this Act if the contract binding
18 the purchaser to purchase the property is executed before that
19 date.

20 SECTION 3. This Act takes effect September 1, 2011.

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David Newburt
President of the Senate

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 710 passed the Senate on April 29, 2011, by the following vote: Yeas 31, Nays 0.

Patry Spaw
Secretary of the Senate

I hereby certify that S.B. No. 710 passed the House on May 20, 2011, by the following vote: Yeas 142, Nays 4, one present not voting.

Robert Haney
Chief Clerk of the House

Approved:

17 Jun '11
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:00 pm O'CLOCK

JUN 17 2011
Debra McArthur
Secretary of State